

File No. 100582

Committee Item No. 2

Board Item No. \_\_\_\_\_

## COMMITTEE/BOARD OF SUPERVISORS

### AGENDA PACKET CONTENTS LIST

Sub - Committee: Budget and Finance

Date: June 2, 2010

Board of Supervisors Meeting

Date: \_\_\_\_\_

#### Cmte Board

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| <input checked="" type="checkbox"/> | <input type="checkbox"/> | Ordinance                                    |
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| <input checked="" type="checkbox"/> | <input type="checkbox"/> | Budget Analyst Report                        |
| <input type="checkbox"/>            | <input type="checkbox"/> | Legislative Analyst Report                   |
| <input type="checkbox"/>            | <input type="checkbox"/> | Introduction Form (for hearings)             |
| <input checked="" type="checkbox"/> | <input type="checkbox"/> | Department/Agency Cover Letter and/or Report |
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| <input type="checkbox"/>            | <input type="checkbox"/> | Grant Information Form                       |
| <input type="checkbox"/>            | <input type="checkbox"/> | Grant Budget                                 |
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Completed by: Andrea S. Ausberry

Date Friday, May 28, 2010

Completed by: \_\_\_\_\_

Date \_\_\_\_\_

An asterisked item represents the cover sheet to a document that exceeds 25 pages. The complete document is in the file.



1 [Appropriating \$811,734 of fund balance for the Code Enforcement Rehabilitation Fund in  
2 Department of Building Inspection and Mayor's Office of Housing in FY2009-2010]

3  
4 **Ordinance appropriating \$738,240 of Code Enforcement Rehabilitation Fund**  
5 **unappropriated fund balance and deappropriating \$73,494 of prior year appropriations**  
6 **to support code enforcement activities in the Department of Building Inspection and**  
7 **the Mayor's Office of Housing in Fiscal Year 2009-2010.**

8  
9 Be it ordained by the People of the City and County of San Francisco:

10  
11 Section 1. The source of funding outlined below is herein appropriated to reflect the funding  
12 available for Fiscal Year 2009-2010.

13  
14 **SOURCES Appropriation**

Fund	Index Code / Project	Subobject	Description	Amount
2S BIF CER – DBI-	DPW774133	99999B	Unappropriated Fund	\$738,240
Code Enforcement /	Project: PPW004 –		Balance	
Rehabilitation Fund	Code Enforcement			
	Rehabilitation Fund			
<b>Total SOURCES Appropriation</b>				<b>\$738,240</b>

1 Section 2. The use of funding outlined below is herein de-appropriated to reflect the funding  
 2 available for Fiscal Year 2009-2010.

3  
 4 **USES De-appropriation**

Fund	Index Code / Project	Subobject	Description	Amount
2S BIF CER – DBI-	DPW774133	06B00 –	De-appropriating	\$73,494
Code Enforcement /	Project: PPW004 –	Programmatic	previously	
Rehabilitation Fund	Code Enforcement	Projects Budget	approved project	
	Rehabilitation Fund	Prior Year	Prior Year	
		Appropriations	Appropriations	
<b>Total USES De-appropriation</b>				<b><u>\$73,494</u></b>

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 13 Section 3. The uses of funding outlined below are herein appropriated in the Subobjects  
 14 03920 Loans Issued by City, 02799 Other Professional Services, and 0952A Intrafund  
 15 Transfer in to Building Inspection Funds, and reflects the projected uses of funding to support  
 16 code enforcement and rehabilitation activities in the Mayor's Office of Housing and the  
 17 Department of Building Inspection and the in Fiscal Year 2009-2010.

1 **USES Appropriation**

2	Fund	Index / Project /	Subobject	Description	Amount
3		Grant Code			
4	2S CDB GNC –	MYRRLFP01	03920 Loans	Community	\$344,331
5	Community		Issued by City	Development	
6	Development Special	Grant: MORLFF CH		Block Grant	
7	Revenue Fund –			Community	
8	Grants, Non Project,			Housing	
9	Continuing			Rehabilitation	
10					
11	2S BIF RAD - DBI-	DBIIBIF0049	02799 Other	Code Enforcement	\$317,403
12	Repair and Demolition	Project: PBIRD –	Professional	Activities	
13	Fund	Repairs and	Services		
14		Demolition			
15					
16	2S BIF CER – DBI-	Transfer to	0952A – Revenue	Code Enforcement	\$150,000
17	Code Enforcement /	2SBIFANP – Building	Transfer in to	Activities	
18	Rehabilitation Fund	Inspection Operating	Building Inspection		
19		Non-Project Fund	Fund		
20					
21	<b>Total USES Appropriation</b>				<b><u>\$811,734</u></b>

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23 Section 4. The Controller is hereby authorized to adjust and apply transfers between Special

24 Revenue Funds to reflect revenue and expenditure authority contained in this Ordinance.

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FUNDS AVAILABLE

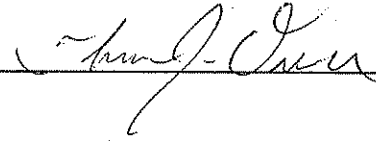
APPROVED AS TO FORM:

BEN ROSENFELD

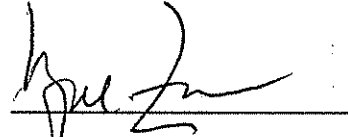
DENNIS J. HERRERA, City Attorney

Controller

By:



By:



Deputy City Attorney

Date: 05/11/2010

**Item 2**  
**File 10-0582**

**Department:**  
Department of Building Inspection (DBI)  
Mayor's Office of Housing (MOH)

## EXECUTIVE SUMMARY

### Legislative Objective

- The proposed supplemental appropriation ordinance would (a) appropriate \$738,240 from the Code Enforcement Rehabilitation Fund (CERF) unappropriated fund balance, and (b) deappropriate \$73,494 of prior year unexpended CERF appropriations for a total of \$811,734, to support various activities in the Department of Building Inspection (DBI) and the Mayor's Office of Housing (MOH).

### Fiscal Impacts

- The \$73,494 of prior year unexpended appropriations consists of (a) \$19,120 in Hardship Loan payments and (b) \$54,374 in previously appropriated CERF monies that were unexpended and carried forward.
- The requested appropriation of \$811,734 would fund (a) \$150,000 of salary, benefits, and overhead for one existing 6270 Housing Inspector in the 2009-2010 budget, (b) \$117,403 deficit in the DBI Repair and Demolition Fund, (c) \$200,000 of emergency orders for the Repair and Demolition Fund, and (d) \$344,331 for MOH to pay for Hardship Loans and Underground Utility Grants.
- The FY 2009-2010 DBI budget assumes the \$150,000 of the CERF monies would cover the salary and fringe benefits for one 6270 Housing Inspector for all of FY 2009-2010. Because such CERF monies have not yet been appropriated, the DBI has been paying for this position using the DBI's existing operating fund balance, which was \$533,000 at the start of FY 2009-2010. In FY 2010-2011 this position will be paid with DBI's operating funds.
- DBI is requesting an appropriation of \$117,403 to cover an existing deficit in DBI's Repair and Demolition Fund and \$200,000 to pay for future emergency orders, such as for fires or landslides at residential properties. These services are initially paid by the DBI and later paid back to the DBI by the property owners.

### Policy Issues

- If the proposed ordinance is approved, the balance in the CERF would be exhausted and DBI's involvement with the CERF program will end. Additionally, under the proposed ordinance the MOH will assume all responsibility for the Hardship Loan Program and the Underground Utility Grants Program, including fiscal responsibilities, which was historically handled by DBI. According to Ms. Pamela Levin, Deputy Director for Administrative Services of DBI, if the proposed ordinance is approved, DBI will request in separate legislation that the Board of Supervisors amend Section 104A.4 of the San Francisco Building Code to remove reference to DBI's involvement with CERF and the Hardship Loan Program.

### Recommendation

- Approval of the proposed ordinance is a policy matter for the Board of Supervisors.

**MANDATE STATEMENT****Mandate Statement**

In accordance with Section 9.105 of the City's Charter, (a) amendments to the annual appropriations ordinance, as finally adopted, are to be adopted in accordance with Section 2.105 of the Charter, and (b) no amendment to the appropriations ordinance may be adopted unless the Controller certifies the availability of funds. In accordance with Section 2.105 of the San Francisco Charter, the approval of an ordinance requires two readings at separate Board of Supervisors meetings, held at least five days apart.

**BACKGROUND****Code Enforcement and Rehabilitation Funds (CERF)**

The Code Enforcement and Rehabilitation Fund (CERF) is a special fund, which contains all Local Agency Code Enforcement and Rehabilitation Funds<sup>1</sup> allocated to the City and County of San Francisco by the State Controller. As stated in Section 104A.4 of the San Francisco Building Code, CERF monies are administered by the Department of Building Inspection and can be used to (a) defray costs incurred in the enforcement of local housing code provisions, (b) fund housing rehabilitation programs for low and moderate income persons as defined in Section 50093<sup>2</sup> of the State Health and Safety Code, and (c) prevent or minimize displacement of tenants and homeowners as a result of local enforcement activities.

In accordance with Section 104A.4.4 of the City's Building Code, CERF monies are not included as revenues in the DBI's annual budget, but are subject to appropriation approval by the Board of Supervisors through separate appropriation ordinances.

According to Ms. Pamela Levin, Deputy Director of Administrative Services of the DBI, the State has not allocated any Local Agency Code Enforcement and Rehabilitation Fund monies to the City's CERF since FY 2003-2004. However, Ms. Levin advises the State may have a balance of Local Agency Code Enforcement and Rehabilitation Funds that are owed to the City, because since FY 2003-2004, the DBI has submitted Notices of Non-Compliance to the State for code violations, and the State is supposed to allocate the revenues resulting from such code violations into the City's CERF. If the City receives additional CERF revenues, such revenues would be

<sup>1</sup> Pursuant to California Revenue & Taxation Code Sections 17274 and 24436.5, the California Franchise Tax Board does not allow property owners to deduct interest, taxes, amortization, and depreciation relating to substandard property. Taxpayers receive a Notice of Proposed Assessment if the disallowed deductions result in additional State taxes due. The CERF funds are the additional State tax revenues generated by disallowed deductions. The State Controller allocates and disburses these CERF funds to cities and counties that sent Notices of Non-Compliance to the State Franchise Tax Board for code violations associated with substandard housing. Those State tax revenues are paid to the City by the State Local Code Enforcement Rehabilitation Fund administered by the State Controller,

<sup>2</sup> Section 50093 of the State Health and Safety Code states that "Persons and families of low or moderate income" are persons and families whose income does not exceed 120 percent of area median income, which is adjusted for family size in accordance with the United States Department of Housing and Urban Development (US HUD).



subject to appropriation approval by the Board of Supervisors, through a separate appropriation ordinance.

### **Historical Use of Code Enforcement Rehabilitation Fund (CERF) Monies in San Francisco**

The DBI has historically worked with the Mayor's Office of Housing (MOH) and used CERF monies to fund Hardship Loans and Underground Utility Grants.

### **Hardship Loan Program**

In accordance with Building Code Section 104A.4.3, Hardship Loans, ranging from \$250 to \$25,000, can be allocated to low and moderate income persons by the MOH who are (a) the owner-occupant of a one- to three-unit residential building, or (b) the owner of a condominium unit in a multi-unit building, which the DBI Building Official has found to be unsafe pursuant to Building Code Section 102A<sup>3</sup>. Code Section 104A.4.3 states that the property owner must (a) have title to the property, (b) occupy the property for at least one year, (c) be considered as a low or moderate income person, which is 80 percent of the median income for San Francisco households of comparable size, as determined by the United States Department of Housing and Urban Development (US HUD), (d) be unable to obtain comparable financing, and (e) agree to remove the serious and imminent hazards with the Hardship Loan proceeds. In accordance with Section 104A.4.3 of the Building Code, the Hardship Loans are (a) interest-free, (b) deferred until the term of the Loan begins, and (c) due and payable upon sale or transfer of the property or termination of owner occupancy. Hardship Loan repayments are deposited back into the City's CERF account. If the proposed ordinance is approved, MOH, instead of DBI, will administer the Hardship Loan Program and will reuse the Hardship Loan payments to grant additional loans. The allocations of individual loans are not subject to Board of Supervisors approval.

### **Underground Utility Grants**

Underground Utility Grants of up to \$4,000 per applicant can be issued to eligible low or moderate income property owner-occupants to offset the costs of connecting their property utility lines to underground conduits under the sidewalks and streets<sup>4</sup>. Grant recipients are not expected to repay the grants. An eligible property owner must (a) have title to the property, (b) occupy the property for at least one year, and (c) be considered as a low or moderate income person, which is 80 percent of the median income for San Francisco households of comparable size, as determined by the US HUD. The allocations of individual grants are not subject to Board of Supervisors approval.

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<sup>3</sup> In accordance with San Francisco Building Code Section 102A, housing properties can be determined unsafe if the property (a) is not provided with an adequate exit, (b) is a fire hazard, (c) is dangerous to human life, (d) decreases the safety or health of the occupants or the occupants of adjacent properties or the public by reason of inadequate maintenance, dilapidation, obsolescence or abandonment, (e) is used in a manner that is in violation of law or ordinance, or (f) was erected, moved, altered, constructed or maintained in violation of law.

<sup>4</sup> In collaboration with utility companies, the Department of Public Works has moved overhead utility wires and poles into underground conduits under sidewalks and streets within legislated Underground Districts. Once the underground conduits are in place, property owners are required to connect their property utility lines to the underground conduits.

### Proposed CERF funds Appropriation in FY 2008-2009

While Code Enforcement Rehabilitation Fund (CERF) monies have historically been used to fund Hardship Loans and Underground Utility Grants, on April 28, 2009, DBI introduced an ordinance (File No. 09-0538), requesting that a total of \$818,844 CERF monies be used to fund \$10,000 of Hardship Loans and Underground Utility Grants, and \$808,844 of DBI's (a) personnel costs associated with four Housing Inspectors and, and (b) DBI's Repair and Demolition Fund deficit, as detailed in Table 1 below.

Hardship Loans and Underground Utility (UUP) Grants	\$10,000
Repair and Demolition Fund Deficit	343,504*
Building Inspection Operating Non-Project Fund	
- Deferring layoffs for three 6270 Housing Inspectors from May 1, 2009 until July 1, 2009 - \$61,267	
- A portion of the FY 2008-2009 Hotel and Apartment Licensing Fees deficit - \$254,073	
- 0.60 FTE of one filled 6270 Housing Inspector in the FY 2009-2010 budget (includes salaries, benefits and overhead costs) - \$150,000	465,340*
<b>Total Uses</b>	<b>\$818,844</b>
* \$343,504 plus \$465,340 equals \$808,844	
Source: Memo to Budget and Finance Subcommittee, June 3, 2009 Budget and Finance Subcommittee Meeting	

That supplemental appropriation ordinance has not been approved by the Board of Supervisors.

#### Current Status and Proposed Uses of CERF Monies

According to Ms. Levin, \$738,240 of unappropriated CERF monies has been carried forward from previous years. In addition, according to Ms. Levin, there is currently an unexpended balance of previously appropriated CERF monies totaling \$73,494<sup>5</sup>, which was also carried forward into FY 2009-2010, for a total available CERF balance of \$811,734, which is the subject of this request.

#### DETAILS OF PROPOSED LEGISLATION

The proposed ordinance would (a) appropriate \$738,240 of the Code Enforcement Rehabilitation Fund (CERF) unappropriated fund balance, and (b) deappropriate \$73,494 of prior year CERF appropriations, for a total of \$811,734.

<sup>5</sup> If the DBI does not fully expend the entire CERF appropriation in a given fiscal year, the appropriated balance is carried forward into the following fiscal year.

## FISCAL ANALYSIS

Table 2 below identifies the sources and uses for the CERF appropriation request of \$811,734.

<b>Table 2: Proposed Sources and Uses of Funds</b>	
<b>Sources</b>	
Unappropriated CERF remaining balance	\$738,240
Deappropriate Prior Year CERF monies	73,494
<b>Total Sources</b>	<b>\$811,734</b>
<b>Uses</b>	
<b>Building Inspection Operating Non-Project Fund:</b> One existing 6270 Housing Inspector (1.00 FTE) (includes salary, mandatory fringe benefits, and overhead costs)	\$150,000
<b>Building Inspection Operating Non-Project Fund:</b> Existing Repair and Demolition Fund Deficit	117,403*
<b>Building Inspection Operating Non-Project Fund:</b> Future emergency orders under the Repairs and Demolition Fund	200,000*
<b>Mayor's Office of Housing:</b> Hardship Loans and Underground Utility grants	344,331
* \$117,403 plus \$200,000 equals \$317,403.	
<b>Total Uses</b>	<b>\$811,734</b>
Source: DBI	

### Sources of Funds

According to Ms. Levin, the requested \$73,494 to be deappropriated from prior year CERF appropriations consists of (a) \$19,120 from Hardship Loan repayments that were deposited into the CERF account and (b) \$54,374 in previously appropriated CERF monies for Hardship Loans and Underground Utility Grants that were not yet expended on these programs. As noted above, CERF is a continuing project, such that the City's CERF monies have been carried forward, and the current CERF unappropriated fund balance is \$738,240, all of which would be appropriated under the proposed ordinance. If the proposed ordinance is approved, MOH will administer the Hardship Loan Program and the Underground Utility Grant Program instead of DBI administering such programs.

The following provides additional details for the proposed expenditures:

### DBI Housing Inspector (\$150,000)

The proposed ordinance would provide \$150,000 to fund the salary, fringe benefits and overhead of one 6270 Housing Inspector for the entire FY 2009-2010, as shown in Table 3 below.

<b>Table 3: Proposed DBI Salary Expenditures</b>	
Salary: One 6270 Housing Inspector (1.00 FTE)	\$103,948
Mandatory Fringe Benefits	36,382
Overhead associated with the position	9,670
<b>Total</b>	<b>\$150,000</b>
Source: DBI	

Ms. Levin advised that the FY 2009-2010 DBI budget assumed the requested \$150,000 of CERF monies would be available to cover the salary and fringe benefits for one 6270 Housing Inspector. Because the CERF monies have not yet been appropriated, the DBI has been paying for this position using the DBI's existing operating fund balance, which was \$533,000 at the start of FY 2009-2010. In FY 2010-2011, this position will be paid from DBI's operating fund.

#### **DBI Repair and Demolition Fund (\$317,403)**

In accordance with Code Sections 102A.12 and 102A.13, DBI's Repair and Demolition Fund is a special revolving fund that may be used to defray DBI's operating and administrative costs, incurred when DBI determines that a building, structure, or property needs to be barricaded, secured, repaired or altered, demolished. Such work is done directly by the DBI or by DBI contractors. The balance in DBI's Repair and Demolition Fund is carried forward at the end of each fiscal year.

Under the proposed ordinance, DBI is requesting an appropriation of \$317,403 (see Table 2 above) to the Repair and Demolition Fund, including (a) \$117,403 to cover an existing deficit in the Repair and Demolition Fund, and (b) \$200,000 to pay for future emergency orders to address catastrophic events, such as fires or landslides at residential properties. According to Ms. Levin, the cost for these DBI services, which are initially paid by DBI, are subsequently paid back to the DBI Repair and Demolition Fund by the residential property owners over several years. Ms. Levin advised that the Repair and Demolition Fund is a continuing fund and the proposed \$200,000 will remain in the Fund until needed to address future emergency orders, along with payments made to reimburse the DBI for such emergency orders. Ms. Levin anticipates that the proposed \$200,000 may last for several years since DBI has expended an annual average amount of only \$15,000 on emergency orders over the past five years.

#### **MOH: Hardship Loans and Underground Utility Grants (\$344,331)**

According to Ms. Myrna Melgar, Director of Home Ownership Programs at MOH, the MOH will use \$344,331 (see Table 2 above) of the requested total of \$811,734 to fund additional Hardship Loans and Underground Utility Grants as needed. According to Ms. Levin and Ms. Melgar, the MOH will administer the Hardship Loans and Underground Utility Grants, which were formerly administered by both DBI.

Ms. Melgar advises that the MOH will determine the specific loan and grant allocations from the \$344,331 based on the applications received for these loan and grant programs. As shown in Tables 4 and 5 below, the total annual amounts of Hardship Loans and Underground Utility Grants issued varies from year to year. Ms. Melgar anticipates that MOH will issue approximately \$50,000 per year in both Hardship Loans and Underground Utility Grants, an estimate which she advised is based on the level of loan and grant activity in previous years.

Table 4 below shows total annual amounts of Hardship Loans issued between FY 2004-2005 and FY 2008-2009, totaling \$309,295. The average total amount of Hardship Loans issued was \$61,859. FY 2009-2010 is not included in the table because no loans were issued during the current fiscal year.

FY 2004-2005	\$64,250
FY 2005-2006	104,390
FY 2006-2007	51,770
FY 2007-2008	56,885
FY 2008-2009	32,000
<b>Total</b>	<b>\$309,295</b>
<b>Average</b>	<b>\$61,859</b>
Sources: DBI and MOH	

Table 5 below shows that a total of \$259,967, or an average of \$51,993 per year of Underground Utility Grants, was awarded between FY 2004-2005 and FY 2008-2009. FY 2009-2010 is not included in the table because no grants were awarded during the current fiscal year.

FY 2004-2005	\$93,069
FY 2005-2006	99,511
FY 2006-2007	13,800
FY 2007-2008	9,165
FY 2008-2009	44,422
<b>Total</b>	<b>\$259,967</b>
<b>Average</b>	<b>\$51,993</b>
Source: DBI and MOH	

## **POLICY CONSIDERATIONS**

### **Changes to Building Code Section 104A.4**

Historically, DBI worked with the MOH to allocate Hardship Loans to low and moderate income persons. The MOH received, reviewed and approved Hardship Loan applications from low and moderate income persons, and then the DBI processed the funding in order to pay for the approved loans and grants to approved applicants. According to both Ms. Levin and Ms. Melgar, if the requested \$344,331 (see Table 2 above) of CERF monies are appropriated for the MOH under the proposed ordinance, the MOH will assume all responsibilities for the Hardship Loan and Underground Utility Grants. Additionally, if the proposed ordinance is approved, all remaining funds in the CERF account will have been appropriated. As a result, the DBI will request approval from the Board of Supervisors, in future legislation to amend Section 104A.4 of the City's Building Code to remove all reference to DBI's involvement with CERF and the Hardship Loan and Underground Utility Grant Programs.

The Budget and Legislative Analyst notes that these amendments to the San Francisco Building Code should be submitted to the Board of Supervisors as soon as possible in order to accurately reflect that MOH will administer the Hardship Loan and Underground Utility grant programs instead of DBI, using the funds to be appropriated under this subject appropriation request.

### **Proposed Use of CERF Monies**

The Budget and Legislative Analyst notes that CERF monies have historically been used only to fund Hardship Loans and Underground Utility Grants and have not been previously used to fund DBI's Repair and Demolition Fund expenditures or DBI's personnel costs. Therefore, the Budget and Legislative Analyst considers the proposed ordinance to be a policy matter for the Board of Supervisors.

As discussed above, the proposed ordinance would appropriate all remaining funds in the CERF account. Because the State has not allocated any Local Agency Code Enforcement and Rehabilitation Funds into the City's CERF since FY 2003-2004, Ms. Levin of DBI believes it is unlikely the State will allocate additional CERF monies to San Francisco in the future. However, if the City receives additional CERF revenues, such revenues would be subject to appropriation approval by the Board of Supervisors.

### **RECOMMENDATION**

Approval of the proposed ordinance is a policy matter for the Board of Supervisors.



TO: Angela Calvillo, Clerk of the Board of Supervisors  
FROM: *pot* Mayor Gavin Newsom *ST*  
RE: Appropriating \$811,734 of fund balance for the Code Enforcement  
Rehabilitation Fund in Department of Building Inspection and Mayor's  
Office of Housing in FY2009-2010  
DATE: May 11, 2010

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Dear Madame Clerk:

Attached for introduction to the Board of Supervisors is the Ordinance appropriating \$738,240 of Code Enforcement Rehabilitation Fund unappropriated fund balance and deappropriating \$73,494 of prior year appropriations to support code enforcement activities in the Department of Building Inspection and the Mayor's Office of Housing in Fiscal Year 2009-2010.

I request that this item be calendared in the Budget and Finance Sub-Committee.

Should you have any questions, please contact Starr Terrell (415) 554-5262.

